

1 § 636 and applicable case law, and good cause appearing, the court
2 hereby ADOPTS AND ACCEPTS in part and DECLINES TO ADOPT in part the
3 report and recommendation of the United States Magistrate Judge
4 (ECF No. 18).

5 The court adopts and accepts the report and recommendation
6 insofar as it upholds the Administrative Law Judge's findings to
7 which the plaintiff objected. However, the court declines to adopt
8 the conclusion that remand is necessary because the ALJ's residual
9 functional capacity assessment and hypothetical to the vocational
10 expert did not include a limitation of one- or two-step tasks and
11 instructions. (See ECF No. 18 at 8-10).

12 Each job listing in the Dictionary of Occupational Titles is
13 categorized to one of six Reasoning Levels. See *Rounds v. Comm'r*
14 *Soc. Sec. Admin.*, 807 F.3d 996, 1002 (9th Cir. 2015). A Reasoning
15 Level One requires the ability to carry out "simple one- or
16 two-step instructions"; thus, a limitation to one- or two-step
17 tasks equates with a Reasoning Level One. See *id.* Reasoning Level
18 Two requires the ability to carry out "detailed but uninvolved
19 written or oral instructions." See *id.* The ALJ's RFC assessment
20 and hypothetical provided that plaintiff could perform some
21 detailed, but uncomplicated, tasks, and did not include a one- to
22 two-step limitation. (See AR 23, 60). The RFC assessment and
23 hypothetical thus appear to find that plaintiff can perform at a
24 Reasoning Level Two. However, the ALJ also gave great weight to
25 Dr. Edwards' opinion that plaintiff could perform one- and two-step
26 tasks and instructions (AR 25) - a seeming restriction to Reasoning
27 Level One. The ALJ's decision to give great weight to Dr. Edwards'
28 opinion is therefore inconsistent with the RFC assessment and


1 hypothetical to the vocational expert. The result of the RFC
2 assessment and hypothetical was that the ALJ found plaintiff
3 capable of performing past relevant work and other jobs in the
4 national economy that require a Reasoning Level Two. This included
5 the job of prep cook that, at the time of the ALJ hearing,
6 plaintiff had been performing for more than two years.

7 The court may not reverse an ALJ's decision based on harmless
8 error. *Zavalin v. Colvin*, 778 F.3d 842, 848 (9th Cir. 2015)
9 (citing *Molina v. Astrue*, 674 F.3d 1104, 1111 (9th Cir. 2012)).
10 Given that plaintiff was currently performing a job that required
11 Reasoning Level Two, any error in failing to include a restriction
12 to Reasoning Level One was harmless. Plaintiff's work proved she
13 was capable of performing at a Reasoning Level Two. At a minimum,
14 it proved she could perform her "past relevant work" as a prep cook
15 and therefore was not entitled to disability. Therefore, the court
16 concludes that remand is not required under these circumstances,
17 and the defendant's cross-motion to affirm should be granted and
18 the plaintiff's motion for reversal and/or remand should be denied.

19 In accordance with the foregoing, plaintiff's motion for
20 remand (ECF No. 12) is DENIED, and defendant's cross-motion to
21 affirm (ECF No. 16) is GRANTED. The clerk of the court shall enter
22 judgment accordingly.

23 IT IS SO ORDERED.

24 DATED: This 10th day of February, 2017.

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26 UNITED STATES DISTRICT JUDGE
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